LEGISLATIVE SERVICES AGENCY
Serving the Iowa Legislature

Fiscal Note

Fiscal Services Division

SF 531 – Biofuel Retail and Production Incentives (LSB1834SZ.1)
Analyst: Jeff Robinson (Phone: 515-281-4614) (jeff.robinson@legis.state.ia.us)
Fiscal Note Version – As Passed by the Senate

Description

Senate File 531, as passed by the Senate, amends and extends the current system of ethanol and biodiesel tax incentives. The Bill also creates a biodiesel production payment financed through a General Fund refund process. Finally, the Bill allocates $3.0 million annually from the Statutory Allocations Fund to renewable fuels infrastructure and reduces an allocation to the Underground Storage Tank Program by the same amount.

For biodiesel fuel:

- Extends the tax credit sunset from December 31, 2011, to December 31, 2017.
- Eliminates the requirement that a retailer's diesel gallon sales must meet a threshold of at least 50.0% biodiesel to qualify for the tax credit.
- Establishes per-gallon tax credit rates to replace the current two cents per gallon rate for B-2 and above gallons. The new tax credit rates are:
  - Calendar year (CY) 2012 = two cents per gallon for B-2 and four and one-half cents per gallon for B5 and above.
  - CY 2013 through CY 2017 = four and one-half cents per gallon for B-5 and above.
- Creates a per gallon production payment for each gallon of pure biodiesel produced in the State by a qualified manufacturer. The payment is available for the first 25 million gallons produce by a facility in each of three calendar years. The production payment is financed through a State refund process, not a State appropriation, and the payment is made on a quarterly basis.
  - Three cents per gallon produced in CY 2012
  - Two and one-half cents per gallon produced in CY 2013
  - Two cents per gallon produced in CY 2014

For ethanol fuel:

- Eliminates the phase-down of the current E-85 credit and replaces it with a 16 cent per gallon credit effective January 1, 2012, through December 31, 2017.
- Creates a new tax credit for ethanol blends between E-15 and E-69 (E-70 to E-85 is defined as E-85). The new tax credit equals:
  - Three cents for CY 2012 through CY 2014
  - Two cents for CY 2015 through CY 2017
- Increases the Ethanol Promotion Tax Credit earned for pure biofuel gallons sold, beginning July 1, 2012.
- Allows retail fuel dealers to claim the Ethanol Promotion Tax Credit on location by location basis or a company-wide basis. Current law requires all retailers to calculate the credit on a location by location basis.

For Renewable Fuels Infrastructure:

- The Bill reduces the annual Underground Storage Tank (UST) Program allocation from the Statutory Allocations Fund. The allocation is reduced from the current $17.0 million per year to $14.0 million per year.
- The Bill allocates $3.0 million per year from the Statutory Allocations Fund to the Renewable Fuels Infrastructure Board, and transfers administrative responsibility for the Board from the Department of Economic Development to the Department of Agriculture and Land Stewardship.

Assumptions – Biodiesel Tax Credits

The Department of Revenue 2010 Retailers Motor Fuel Gallons Annual Report states that a total of 239.8 million gallons of B-2 or higher biodiesel gallons were sold at retail in CY 2010, based on reports filed with the Department by retailers. The retail sales assumptions for future biodiesel sales are provided in **Table 1**. The table lists those gallons qualifying for a tax credit only.

Table 1 – Biodiesel Retail Sales Projection

In Millions of Gallons

	B-4 and Lower	B-5 and Higher	Total Biodiesel Blended Gallons	Pure Biodiesel Gallons
CY 2011	181.8	51.3	233.1	6.9
CY 2012	219.2	61.8	281.0	8.3
CY 2013	175.3	116.9	292.2	10.4
CY 2014	180.6	120.4	301.0	10.7
CY 2015	186.0	124.0	310.0	11.0
CY 2016	191.6	127.7	319.3	11.3
CY 2017	197.3	131.6	328.9	11.7

Tax credits earned in CY 2011 are assumed to impact FY 2012 (60.0%), FY 2013 (30.0%), and FY 2014 (10.0%). Succeeding calendar year credits impact future fiscal years in the same pattern.

Assumptions – Biodiesel Production Payment

The gallons of biodiesel projected to be eligible for the production payment are listed in **Table 2**, along with the fiscal year impact of the quarterly production payments.

Table 2 - Biodiesel Production Payment Projection

	Payment-Qualified Gallons in Millions	Fiscal Year	Production Payments in Millions
CY 2012	$ 97.3	FY 2012	$ 0.7
CY 2013	121.8	FY 2013	2.9
CY 2014	132.5	FY 2014	2.9
CY 2015	-	FY 2015	2.0
	$ 351.6		$ 8.6

Assumptions – Ethanol Tax Credits

The Department of Revenue 2010 Retailers Motor Fuel Gallons Annual Report states that a total of 1.290 billion gallons of E-9 or higher ethanol gallons were sold at retail in CY 2010, based on reports filed with the Department by retailers. The future retail sales assumptions for ethanol gallons are provided in **Table 3**.

Table 3 – Ethanol Retail Sales Projection

In Millions of Gallons

	E-09 to E-14	E-15 to E-29	E-30 to E-69	E-70 to E-85	Total Ethanol Blended Gallons	Pure Ethanol Gallons
CY 2011	1,308.0	8.0	2.0	12.0	1,330.0	141.8
CY 2012	1,310.8	28.0	4.0	16.5	1,359.3	150.7
CY 2013	1,294.2	68.0	6.0	21.0	1,389.2	161.2
CY 2014	1,264.3	108.0	8.0	25.5	1,405.8	170.4
CY 2015	1,234.7	148.0	10.0	30.0	1,422.7	179.6
CY 2016	1,205.3	188.0	12.0	34.5	1,439.8	188.8
CY 2017	1,176.1	228.0	14.0	39.0	1,457.1	198.1

The Ethanol Promotion Tax Credit is available for retailers meeting a specified threshold of pure biofuel sales compared to their total retail gasoline sales. The required threshold increases each year and there are reduced tax credit levels available for retailers within 4.0 percentage points of the annual threshold for the year. For calculation of the projected Ethanol Promotion Tax Credit, the assumed gallons qualifying for at least the lowest level of tax credit available that year are listed in the right hand column of **Table 4**.

Table 4 – Ethanol Promotion Credit Gallons

	Minimum Threshold to Receive an Ethanol Promotion Tax Credit	Millions of Pure Biofuel Gallons Receiving Ethanol Promotion Tax Credit
CY 2011	8.0%	115.1
CY 2012	9.0%	106.5
CY 2013	10.0%	94.4
CY 2014	11.0%	81.5
CY 2015	13.0%	64.8
CY 2016	15.0%	40.0
CY 2017	17.0%	18.9

To determine the fiscal impact of the Bill, the projected redemption of current-law retail sales incentives must be subtracted from the projected incentives under the Bill. **Table 5** provides the projected retail tax credits for ethanol and biodiesel under current law.

Table 5 – Tax Credits Under Current Law

	E-85 Tax Credit in Millions	Ethanol Promotion Tax Credit in Millions	Biodiesel Tax Credit in Millions	Total Biofuel Tax Credits in Millions
CY 2011	$ 1.2	$ 4.1	$ 7.0	$ 12.3
CY 2012	1.3	3.6	0.0	4.9
CY 2013	1.4	3.0	0.0	4.3
CY 2014	1.4	2.3	0.0	3.6
CY 2015	1.3	1.5	0.0	2.8
CY 2016	1.2	1.0	0.0	2.2
CY 2017	1.1	0.3	0.0	1.4

Tax credits earned in CY 2011 are assumed to impact FY 2012 (60.0%), FY 2013 (30.0%), and FY 2014 (10.0%). Succeeding calendar year credits impact future fiscal years in the same pattern.

Assumptions – Statutory Allocations Fund Changes

The Statutory Allocations Fund receives revenue from transportation fee and license sources that are not restricted by the Iowa Constitution for expenditure on roads only. The UST Program currently receives $17.0 million per year from the Fund and the allocation does not sunset. The UST Program uses the funds to reimburse site owners for environmental cleanup costs incurred at locations with petroleum contaminated.

Program financial projections indicate that while the Program has a cash balance in excess of $20.0 million, its projected cleanup reimbursement liabilities exceed current funds available so future allocations are required to fully reimburse all claims outstanding. However, the Program appears to have sufficient cash flow to meet annual reimbursement requirements going forward at a lowered annual allocation of $14.0 million as proposed in the Bill.

Although the UST annual allocation from the Statutory Allocations Fund does not sunset, it is assumed that at some point the UST Program will be funded sufficiently to cover all outstanding liabilities and the allocation can be terminated. Once terminated, excess funds in the Statutory Allocations Fund flow to the Road Use Tax Fund unless directed elsewhere.

Fiscal Impact

Redemption by taxpayers of the revised and extended refundable ethanol and biodiesel retail tax credits, along with the new biodiesel production payment, is projected to reduce net General Fund tax revenue by $90.0 million from FY 2012 through FY 2020. The left portion of **Table 6** provides a calendar year projection of the retail tax credits for ethanol and biodiesel fuel under the proposed incentive system and subtracts from those projections the assumed tax credit redemptions under current law. The right side of **Table 6** converts the calendar year projections to a fiscal year basis and adds the biodiesel production payments. The far right hand column provides the combined fiscal impact of the Bill by fiscal year. The fiscal impact is the increase in retail and production incentives over the projected incentives under current law.

Table 6 – General Fund Fiscal Impact Projections

Dollars in Millions

	Proposed Retail Ethanol Tax Credits	Proposed Retail Biodiesel Tax Credits	Total Proposed Retail Tax Credits	Subtract Current Law Tax Credits	Tax Credit Increase CY Basis	Fiscal Year	Retail Credit Increase FY Basis	Biodiesel Production Payment FY Basis	Combined Net General Fund Revenue Reduction
CY 2011	$6.1	$7.0	$13.1	($12.3)	$0.8	FY 2012	$0.5	$0.7	$1.2
CY 2012	8.9	7.2	16.1	(4.9)	11.2	FY 2013	7.0	2.9	9.9
CY 2013	10.2	5.3	15.5	(4.3)	11.2	FY 2014	10.2	2.9	13.1
CY 2014	11.5	5.4	16.9	(3.6)	13.3	FY 2015	12.4	2.0	14.4
CY 2015	11.0	5.6	16.6	(2.8)	13.8	FY 2016	13.4	0.0	13.4
CY 2016	11.2	5.7	16.9	(2.2)	14.7	FY 2017	14.3	0.0	14.3
CY 2017	11.9	5.9	17.8	(1.4)	16.4	FY 2018	15.6	0.0	15.6
	$70.8	$42.1	$112.9	($31.5)	$81.4	FY 2019	6.4	0.0	6.4
						FY 2020	1.6	0.0	1.6
							$81.4	$8.6	$90.0

The ethanol and biodiesel retail tax credits are refundable and the biodiesel production payment is not a tax credit, so neither will impact the Local Option Income Surtax for schools.

The Bill also lowers the annual revenue dedicated to UST Program environmental cleanup of petroleum contamination by $3.0 million and increases annual revenue for Renewable Fuel Infrastructure by the same amount. This action delays the future date when the UST annual allocation will no longer be necessary.

Sources

Department of Revenue 2010 Retailers Motor Fuel Gallons Annual Report
Legislative Services Agency Analysis
Department of Revenue Contingent Tax Credit Liabilities Report (March 2011)
Iowa Renewable Fuels Association (Urbanchuk, 2011)
UST Fund Board projections

/s/ Holly M. Lyons

May 4, 2011

The fiscal note for this bill was prepared pursuant to **Joint Rule 17** and the correctional and minority impact statements were prepared pursuant to Code **Section 2.56**. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.